Supreme Court, U. S.
FILED
DEC 3 1979
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979

NO. 79-598

MURRAY H. MICHAEL,

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

MURRAY H. MICHAEL
P.O. Box 1137
Kissimmee, Florida 32741
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Petitioner

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APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 78-2545

UNITED STATES OF AMERICA,
Appellee

v.

MURRAY H. MICHAEL,
Appellant

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

(D.C. Crim. No. 77-00455)

Argued August 8, 1979
Before ALDISERT and WEIS, Circuit Judges, and DIAMOND*, District Judge

Opinion filed
August 17, 1979

H. Franklin Robbins, Jr., Esq. (argued)
120 South Court Avenue
Suite 108
Orlando, Florida 32801
Attorney for Appellent

Robert J. Del Tufo, Esq.
United States Attorney
Samuel A. Alito, Esq. (argued)
Assistant U. S. Attorney
Federal Building
Newark, New Jersey 07101
Attorneys for Appellee

OPINION OF THE COURT

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*Honorable Gustave Diamond, United States District Court for the Western District of Pennsylvania, sitting by designation.

PER CURIAM.

After considering the contentions raised by defendant, to wit, that

(1) Count 1 is defective because it fails to allege sufficient facts to show that the objective of the conspiracy was a criminal misapplication;

(2) defendant's conviction on Count 1 violates Wharton's Rule;

(3) with regard to count 1, the evidence established as a matter of law that there were several conspiracies rather than one;

(4) the trial court erred in denying defendant's requested jury instructions numbers 5 and 6;

(5) there was insufficient evidence to support defendant's conviction of the offense charged in count 2;

(6) the trial court abused its discretion and committed reversible error when it admitted into evidence the following:

(a) testimony of government witness Greenspon and charts he had prepared which purported to reflect that defendant had diverted loan proceeds, and

(b) testimony of government witness Angelakes who testified that defendant had never repaid the loans; and

7. the trial court erred in instructing the jury on the derivative liability doctrine;

we order that the judgment of the district court be affirmed.

In the exercise of our discretion, we do not pass upon the conviction under counts 15, 16 and 17 because the same concurrent sentences were ordered upon those counts as were imposed upon counts 1 through 14. See Barnes v. United States, 412 U.S. 837, 848 n.16 (1973); United States v. Lampley, 573 F. 2d 783 (3d Cir. 1978). Since we have not passed upon the contentions applicable to counts 15, 16, and 17, the convictions on those counts should not be considered in passing upon the defendant's parole eligibility.

The judgment of the district court as to counts 1 through 14 will be affirmed.

TO THE CLERK:

Please file the foregoing opinion.

CIRCUIT JUDGE

UNITED STATES COURT OF APPEALS
FOR THE THIRD DISTRICT

UNITED STATES OF AMERICA

vs.

MICHAEL, MURRAY H.,
Appellant

(D.C. Criminal No. 77-00455)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Present: ALDISERT and WEIS, Circuit Judges and DIAMOND, District Judge.*

J U D G M E N T

This cause came on to be heard on the record from the United States District Court for the District of New Jersey and was argued by counsel on August 8, 1979.

On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said District Court, filed November 3, 1978, be, and the same is hereby affirmed with respect to Counts 1 through 14.

ATTEST:
M. Elizabeth Ferguson
Chief Deputy Clerk
August 17, 1979

*Honorable Gustave Diamond, United States District Court for the Western District of Pennsylvania, sitting by designation.

DISTRICT OF NEW JERSEY

DEFENDANT: ROBERT E. MCGRATH — Cr. 77-00455

COUNSEL: ___ WITHOUT COUNSEL ... X WITH COUNSEL Joseph Forer, Esq.

PLEA: ___ GUILTY, ... ___ NOLO CONTENDERE. X NOT GUILTY

There being a finding/verdict of ___ NOT GUILTY. Defendant is discharged ... X GUILTY.

conspiracy to misapply and cause to be misapplied bank funds; misapplication of bank funds; and interstate travel with intent to facilitate bribery;

On count 1 -

Five (5) Years.

On Counts 2 to 5 inclusive, 8 to 16 inclusive, and 26 to 28 inclusive Five (5) Years on each count, and to run concurrent with Sentence imposed on Count 1, and to run concurrent with each other.

It Is Further Ordered that said Execution of Term Sentence is hereby Stayed pending Appeal.

FILED

NOV 3 1978

STATUTES INVOLVED:

18 U.S.C. § 2:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

18 U.S.C. § 371:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

STATUTES INVOLVED CONTINUED:

18 U.S.C. § 656:

Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, national bank or insured bank, or a receiver of a national bank, or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank or any moneys, funds, assets or securities intrusted to the custody or care of such bank, or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

As used in this section, the term "national bank" is synonymous with "national banking association"; "member bank" means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; and "insured bank" includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corp.

STATUTES INVOLVED CONTINUED:

18 U.S.C. § 1952:

(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to--

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act (21 USCS § 802(b), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CRIMINAL NO. 77-445

Title 18,United States Code,
Sections 371, 656, 1952 and 2

UNITED STATES OF AMERICA

v.

MURRAY H. MICHAEL

The Grand Jury, in and for the District of New Jersey, sitting at Newark, charges that:

COUNT 1

1. At all times mentioned in this Indictment, the Trust Company of New Jersey, with its principal offices located in Jersey City, New Jersey, was a bank, the deposits of which were insured by the Federal Deposit Insurance Corporation.

2. At all times mentioned in this Indictment, the defendant,

MURRAY H. MICHAEL,

resided in the State of Florida, was a customer of the Trust Company of New Jersey, who borrowed in excess of $800,000.00 from said bank in his own name and in the names of certain business entities, of which he was a principal; including Mid-Florida Industries, Inc.; Three M Investments, Inc.; Maximum One Limited; American Housekeeping, Inc.; Gallows Development Corporation; County Wide Management, Inc.; GA Chem.,Inc.; Khem Troll,Inc.;MI Chem.,Inc.;ORL Company,

Inc.; LA Company, Inc.; JAX Chem., Inc.; Mid-State Management, Inc.; Osceola Management, Inc.

3. At all times mentioned in this Indictment, James M. Neveras, named herein as a co-conspirator but not as a defendant, was the Vice President -- Commercial Lending of the Trust Company of New Jersey with responsibility for reviewing applications for loans and other extensions of credit.

4. From at least as early as in or about January of 1974, and continuing thereafter up to and including the date of the filing of this Indictment, the exact dates being unknown to the Grand Jury, in the District of New Jersey, and elsewhere, the defendant,

MURRAY H. MICHAEL,

together with the unindicted co-conspirator, James M. Neveras, and others, did knowingly, wilfully and unlawfully combine, conspire, confederate and agree with each other, and with others, to commit certain offenses against the United States, that is, to wilfully misapply and cause to be misapplied by the unindicted co-conspirator, James M. Neveras, an amount in excess of $100.00 of the monies, funds and credits of the Trust Company of New Jersey, with the intent to injure and defraud said Bank, in violation of Title 18, United States Code, Sections 656 and 2.

5. It was a part of said conspiracy that, in order to obtain funds for the personal use of the

defendant, MURRAY H. MICHAEL, in connection with certain business ventures, the defendant, MURRAY H. MICHAEL and the unindicted co-conspirator, James M. Neveras, caused the Trust Company of New Jersey to loan approximately $833,000.00 to a series of business entities of which the defendant was a principal and to the defendant individually.

6. It was a further part of said conspiracy that in order to conceal from the Trust Company of New Jersey the true nature and purpose of the loans, referred to above in Paragraph 5 of this Count of the Indictment, the defendant and co-conspirator would:

A. Make application for loans in amounts which the defendant and co-conspirator knew could be approved by the unindicted co-conspirator, James M. Neveras, without further review by other bank officials; and

B. Obtain and renew certain of the loans based upon false, fictitious, and fraudulent documents and information.

7. It was a further part of said conspiracy that the defendant, MURRAY H. MICHAEL, would meet with James M. Neveras for the purpose of securing loans from the Trust Company of New Jersey in return for money (kickbacks) to James M. Neveras of approximately ten percent (10%) of the face value of the loans.

8. It was a further part of said conspiracy that the defendant and co-conspirator performed other acts to hide and conceal, and cause to be hidden and concealed, the purpose and the acts committed in furtherance of the conspiracy.

All in violation of Title 18, United States Code, Section 371.

OVERT ACTS

In furtherance of the conspiracy set forth above, and in order to effect the objects thereof, the defendant and co-conspirator did commit and cause to be committed the following overt acts, among others:

1. In or about January of 1974, the defendant, MURRAY H. MICHAEL, had a conversation with James M. Neveras in the District of New Jersey.

2. On or about January 29, 1974, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $100,000.00 in the name of MURRAY H. MICHAEL.

3. On or about February 8, 1974, the defendant, MURRAY H. MICHAEL, paid James M. Neveras a sum of $10,000.00 in the District of New Jersey.

4. On or about April 2, 1974, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $10,000.00 in the name of MidFlorida Industries, Inc.

5. On or about April 2, 1974, the defendant, MURRAY H. MICHAEL, paid James M. Neveras a sum of $10,000.00 in the District of New Jersey.

6. On or about April 25, 1974, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $100,000.00 in the name of Three M Investments, Inc.

7. On or about April 25, 1974, the defedant, MURRAY H. MICHAEL, paid James M. Neveras the sum of $10,000.00 in the District of New Jersey.

8. On or about October 29, 1974, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $50,000.00 in the name of Maximum One Limited.

9. On or about October 31, 1974, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $50,000.00 in the name of American Housekeeping, Inc.

10. On or about January 20, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of Gallows Development Corp.

11. On or about January 23, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of County-Wide Management, Inc.

12. On or about February 25, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $15,000.00 in the name of Ga. Chem., Inc.

13. On or about February 28, 1975, James M. Neveras approved a

loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of Khem-Troll, Inc.

14. On or about February 28, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $20,000.00 in the name of Mi. Chem., Inc.

15. On or about March 19, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $15,000.00 in the name of Orl. Co., Inc.

16. On or about March 19, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of La. Co., Inc.

17. On or about March 19, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $20,000.00 in the name of Jax. Chem., Inc.

18. On or about April 3, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $10,000.00 in the name of Orl. Co., Inc.

19. On or about April 3, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $9,000.00 in the name of Jax. Chem., Inc.

20. On or about May 16, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $10,000.00 in the name of GA. Chem., Inc.

21. On or about July 2, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the

amount of $22,000.00 in the name of Ga. Chem., Inc.

22. On or about July 11, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $5,000.00 in the name of Mi. Chem., Inc.

23. On or about December 10, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of Gallows Development Corp.

24. On or about December 15, 1975, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $25,000.00 in the name of County-Wide Management, Inc.

25. On or about March 24, 1976, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $48,000.00 in the name of Mid-State Management, Inc.

26. On or about March 25, 1976, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $48,000.00 in the name of Mar. Co., Inc.

27. On or about March 26, 1976, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $45,000.00 in the name of Osceola Management, Inc.

28. On or about July 9, 1976, James M. Neveras approved a loan by the Trust Company of New Jersey in the amount of $20,000.00 in the name of Mid-Florida Industries, Inc.

All of the foregoing in violation of Title 18, United States Code, Section 271.

COUNT 2

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about January 29, 1974, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-con/spirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $100,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $100,000.00 from said bank to MURRAY H. MICHAEL in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan in contravention of the established loan policies of the Trust Company of New Jersey; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate finanacial background information of the defendant that would be sufficient to assure that the defendant, MURRAY H. MICHAEL was financially capable of repaying the aforementioned loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure

said loan; and

d. By paying the unindicted co-conspirator, James M. Neveras, a $10,000.00 kickback in exchange for the unindicted co-conspirator James M. Neveras approving the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 3

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 2, 1974, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $100,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $100,000.00 from said bank to Mid-Florida Industries, Inc. in reckless disregard of the interest of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, Mid-Florida Industries, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted

co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company suffient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan; and

f. By paying the unindicted co-conspirator James M. Neveras a $10,000.00 kickback in exchange for the unindicted co-conspirator James M. Neveras approving the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 4

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 25, 1974, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $100,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $100,000.00 from said bank to Three M Investments, Inc., in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, Three M Investments, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan; and

f. By paying the unindicted co-consipirator James M. Neveras a $10,000.00 kickback in exchange for the unindicted co-conspirator James M. Neverass approving the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 5

1. Paragraphs 1 through 8 of Count of of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about October 29, 1974, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $50,000, with the intent to injure and defraud said bank, by causing the unindicted co-con/spirator James M. Neveras to grant an unsecured loan in the amount of $50,000.00 from said bank to Maxim One Limited, in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-spirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, Maximum One Limited, the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By cuasing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 6

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about January 23, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $25,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $25,000.00 from said bank to County-Wide Management, Inc., in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, County Wide Management, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of

Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 7

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about February 25, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $15,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $15,000.00 from said bank to GA. Chem., Inc., in reckless disregard of the interests of the Trust

Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, GA. Chem., Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 8

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about February 28, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cuase to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $25,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $25,000.00 from said bank to Khem Troll, Inc., in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, Khem-Troll, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of

Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned laon.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 9

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about February 28, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $20,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $20,000.00 from said bank to MI Chem., Inc., in reckless disregard of the interests of the Trust

Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, MI Chem., Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL: and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 10

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about March 19, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $15,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $15,000.00 from said bank to ORL COMPANY, INC. in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, ORL Company, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL: and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to

conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 11

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about March 19, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $25,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $25,000.00 from said bank

to LA. Co. Inc.in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, LA.Co. Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL: and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 12

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about March 19, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspir/ator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $20,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $20,000.00 from said bank to JAX Chem., Inc., in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, JAX Chem., Inc. the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of

Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 14

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 3, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $10,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $10,000.00 from said bank to ORL Co., Inc., in reckless disregard of the interests of the Trust

Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, ORL. Co., Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 14

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 3, 1975, in the District of New Jersey and elsewhere, the defendant,

MURRAY H. MICHAEL

together with the unindicted co-conspirator James M. Neveras and others, did wilfully misapply and cause to be misapplied monies, funds and credits of the Trust Company of New Jersey in the amount of $5,000.00, with the intent to injure and defraud said bank, by causing the unindicted co-conspirator James M. Neveras to grant an unsecured loan in the amount of $5,000.00 from said bank to JAX Chem., Inc., in reckless disregard of the interests of the Trust Company of New Jersey as follows:

a. By causing the unindicted co-conspirator James M. Neveras to grant the aforementioned loan to a sham or dummy company, JAX Chem, Inc., the proceeds of which were for the benefit and use of the defendant, MURRAY H. MICHAEL; and

b. By causing the unindicted co-conspirator James M. Neveras to approve the aforementioned loan without securing adequate financial background information on the sham or dummy company sufficient to assure that the aforementioned sham or dummy company was financially capable of repaying said loan; and

c. By causing the unindicted co-conspirator, James M. Neveras, to

conceal from the bank and the Board of Directors the identity of the defendant, MURRAY H. MICHAEL, as the real beneficiary of the aforementioned loan, in contravention of the established loan policies of the Trust Company of New Jersey; and

d. By causing the unindicted co-conspirator, James M. Neveras, to approve the aforementioned loan without requiring adequate collateral to secure said loan; and

e. The aforementioned sham or dummy company, as the defendant, MURRAY H. MICHAEL, well knew, was financially incapable of repaying the aforementioned loan.

All in violation of Title 18, United States Code, Sections 656 and 2.

COUNT 15

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about February 8, 1974, the defendant

MURRAY H. MICHAEL

did wilfully travel from the State of Florida to the State of New Jersey, with intent to promote, manage, carry on, and facilitate the promoting, managing, establishing and carrying on of an unlawful activity, said unlawful activity being the crime of bribery, in violation of the laws of the State of New Jersey (N.J.S.A. §2A:911) and of the United States (Title 18, United States Code, Section 215); the said unlawful activity relating to the efforts of the defendant,

MURRAY H. MICHAEL, to influence the unindicted co-conspirator James M. Neveras, in the performance of his duties at the Trust Company of New Jersey, and thereafter did perform and attempt to perform acts to promote, manage, and carry on and facilitate the promotion, management and carrying on of said unlawful activity, by giving the unindicted co-conspirator James M. Neveras, the sum of $10,000.00 as a fee, commission and bonus, for the purpose of procuring a loan in the amount of $100,000.00 for the defendant, MURRAY H. MICHAEL, from said Bank, in the name of Murray H. Michael.

In violation of Title 18, United States Code, Sections 1952 and 2.

COUNT 16

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 2, 1974, the defendant

MURRAY H. MICHAEL

did wilfully travel from the State of Florida to the State of New Jersey, with intent to promote, manage, carry on, and facilitate the promoting, managing, establishing and carrying on of an unlawful activity, said unlawful activity being the crime of bribery, in violation of the laws fofthe State of New Jersey (N.J.S.A. §2A:911) and of the United States (Title 18, United States Code, Section 215); the said unlawful activity relating to the efforts of the defendant, MURRAY H. MICHAEL, to influence the unindicted co-conspirator James M.

Neveras, in the performance of his duties at the Trust Company of New Jersey, and thereafter did perform and attempt to perform acts to promote, manage, and carry on and facilitate the promotion, management and carrying on of said unlawful activity, by giving the unindicted co-conspirator James M. Neveras, the sum of $10,000.00 as a fee, commission and bonus, for the purpose of procuring a loan in the amount of $100,000.00 for the defendant, MURRAY H. MICHAEL, from said Bank, in the name of Mid-Florida Industries, Inc.

In violation of Title 18, United States Code, Sections 1952 and 2.

COUNT 17

1. Paragraphs 1 through 8 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about April 25, 1974, the defendant

MURRAY H. MICHAEL

did wilfully travel from the State of Florida to the State of New Jersey, with intent to promote, manage, carry on, and facilitate the promoting, managing, establishing and carrying on of an unlawful activity, said unlawful activity being the crime of bribery, in violation of the laws fofthe State of New Jersey (N.J.S.A. §2A:911) and of the United States (Title 18, United States Code, Section 215); the said unlawful activity relating to the efforts of the defendant, MURRAY H. MICHAEL, to influence the unindicted co-conspirator James M. Neveras, in the performance of his duties

at the Trust Company of New Jersey, and thereafter did perform and attempt to perform acts to promote, manage, and carry on and facilitate the promotion, management and carrying on of said unlawful activity, by giving the unindicted co-conspirator James M. Neveras, the sum of $10,000.00 as a fee, commission and bonus, for the purpose of procuring a loan in the amount of $100,000.00 for the defendant, MURRAY H. MICHAEL, from said Bank, in the name of Three M. Investments, Inc.

In violation of Title 18, United States Code, Sections 1952 and 2.

A TRUE BILL

_____
FOREMAN

_____
ROBERT J. DEL TUFO
UNITED STATES ATTORNEY

REQUEST NO. 15

If you find that the conspiracy alleged in Count 1 has been proven, and you find that in furtherance of that conspiracy any c0-conspirator committed one or more of the substantive crimes charged in Counts 2 through 17, then you may find the Defendant, Murray H. Michael, guilty of those substantive crimes even if he did not commit them directly. This is so because a conspiracy can be viewed as a partnership in crime and each partner is responsible for the crimainal acts of his co-conspirators which were committed in furtherance of the conspiracy.

Pinkerton v. United States, 328 U. S. 640 (1946).

(Jury enters courtroom at 5:02 p.m.)

THE CLERK: May I proceed, your Honor?
THE COURT: Yes, if you will please.
THE CLERK: I will take the roll call. Respond to your name as being "here' or "present".

(At which time the clerk called the roll of the jury and all were present.)

THE CLERK: Members of the jury, have you agreed upon a unanimous verdict? Who shall speak for you, your foreperson?
MRS. PERRONG: Yes, we have.
THE CLERK: Mrs. Perrong?
MRS. PERRONG: Yes, we have.
THE CLERK: Please stand.
How say you, do you find the defendant guilty or not guilty as he stands charged on Count 1?
MRS. PERRONG: Guilty.
Your Honor, we have found the defendant guilt on all seventeen charges.
THE COURT: All right, thank you very much, madam forelady.
MR. FORER: I ask that the jury be polled, your Honor.
THE COURT: They will be.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 1979, copies of this Appendix to Petition for Writ of Certiorari were mailed, air mail, postage prepaid to the Solicitor General Department of Justice, Washington, D.C. 20530. I further certify that all parties required to be served have been served.

_____
MURRAY H. MICHAEL
P.O. Box 1137
Kissimmee, Florida 32741
Telephone: (305) 423-2934

Petitioner